

BULLETIN
No. 20

Al-Haq

P.O. BOX 3393 PORT ELIZABETH 6056
RAMADHAAN 1423 / NOVEMBER 2002

*Special
Edition
No. 2*

'MUSLIM' PERSONAL LAW — THE LAW OF JAAHILIYYAH

All concepts and laws which are in conflict with the immutable Shariah of Allah Azza Wa Jal are part of the cult of pre-Islam Ignorance termed *Jaahiliyyah* in the Qur'aan Shareef. In regard to the law of Jaahiliyyah, Allah Ta'ala declares:

"And, you should decide among them with (The law) which Allah has revealed. Do not follow their banal desires, and beware of them (the kuffaar) that they cast you into fitnah (kufr) regarding some (of the laws) which Allah has revealed to you (O Muhammad!).....Verily, numerous among mankind are faasiqoon (transgressing kuffaar)."
(Aayat 49 Surah Maaidah)

"What? Do they search for the law of Jaahiliyyah? Who is more beautiful than Allah as regards Law for a community which has firm faith (Yaqeen)?"
(Aayat 50 Surah Maaidah)

All things with a Muslim name are not necessarily part of Islam. In this category is the devious and kufr Muslim Personal Law proposal which some Muslims, some Munaafiqeen and some non-Muslims have connived. Proposals which are in diametric conflict with the immutable Shariah of the Qur'aan and Sunnah have been formulated by a hybrid committee which is dubbed 'The Project Committee'.

HYBRID

This committee is hybrid in its composition on account of the great diversity of persuasions and affiliation of its constituent members. However, in spite of its diversity, a

common thread runs through the thinking process of all members—not only members of this pitiful committee which excels in inaptitude and ineptitude—but of all the other miserable groupings which support the kufr proposals as well. That common factor which unites them all is their anti-Islam stand. Their desire to scuttle the pure and immutable sacred Shariah of the Qur'aan and Sunnah. But the plot is to proceed with the dismantling of the Shariah by presenting the proposals of kufr under Islamic guise.

To a degree the enemies of Islam have achieved this evil design by roping in some shallow thinking molvis and quasi theologians. Then they attempt to pull wool over the eyes of the Muslim community with the endeavor to dupe us by manipulating the name of Maulana Taqi Uthmaani Saheb. But such tactics by those who cherish and harbour an inveterate enmity for the Ulama will not succeed. No one but people who lack in intelligence will be deceived by these plots.

JAAHILIYYAH

Any proposal or measure which is in conflict with the Qur'aan and Sunnah (i.e. the Shariah of Islam) is jaahiliyyah, and jaahiliyyah is kufr. It is immensely lamentable that even the elderly Maulana Saheb who had at one time enjoyed the company of the Ulama-e-Haqq, who sits on this committee of kufr, is unable to grasp the reality of the kufr proposals which his consorts on the committee are indoctrinating him with. Instead of guiding the members who are inimical to

Islam, and instead of withdrawing from the cauldron of kufr into which these un-Islamic forces have deposited him, he has lapsed into such blindness which has set him on the course of collision with Allah's Immutable Shariah.

While there is nothing much to lament about the quasi theologian who constitutes part of the hybrid fabric of this misguided committee, the presence of the Maulana Saheb who was looked on as a senior member of the Jamaat of Ulama-e-Haqq of South Africa, is undoubtedly cause for grief. But, the presence of a Maulana in a committee of baatil will not be able to deceive the Muslim community much longer.

THE PROPOSALS

A Muslim need not be a genius in Islamic knowledge to understand the conflict between the kufr proposals of the project committee and Islam. One need not be an Aalim to comprehend the covert rejection of the immutable Divine Shariah by the project committee. The conflict is so glaring that any ordinary Muslim can discern the kufr. But shallow minded learned men and learned men who have ulterior and worldly motives have first blighted their own intelligence, then convinced themselves of the correctness of MPL kufr, then embarked on the process of hoodwinking the community with their concocted ideas of the "Islamic" benefits of kufr—the Law of *Jaahiliyyah*—the MPL proposal.

REFUTATION

The denunciation and refutation of kufr MPL by the Ulama-e-Haqq are not an

attempt to convince the Project Committee nor the anti-Islam groupings which support the kufr proposals, of the grievous error and of the kufr of the MPL moves. Our exercise is an attempt to show the Muslim community that:

- MPL, far from conforming to the Shariah, is in conflict with Allah's laws.
- MPL is kufr.
- There is no benefit whatsoever for the Muslim community in the proposals which the project committee intends to submit to the government for legislating.
- Muslims should not be gullible and swallow the colossal falsehood of the Muslim Personal Law measure being the acceptance of the Shariah by the secular government of the land.

The explanations and criticisms which are presented in this issue of Al-Haq, in also the Special Edition of The Majlis and in the bulletins of other Ulama-e-Haqq associated with the various Daarul Ulooms, will, Insha'Allah, display with clarity the baatil and kufr of the MPL silliness of the Project Committee.

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TAMPERING

WITH THE SHARIAH

The surrogate committee—surrogate of baatil and kufr—has arrogated to itself the right to tamper, mutilate, abrogate and excise Shar'i Laws which the Qur'aan and Sunnah have ordained, and which have been the Law of Islam for

the past fourteen centuries, right from the very inception of Islam.

Then, this ludicrous Committee seeks to sanctify its kufr proposals by enlisting the support of women who masquerade as Muslims, but from whom not even a faint whiff of Imaan emanates. In addition to these munaafiq women's lib movements, it curries the favour and support of other modernist groups which clearly wallow in the la'nat of Rabbul Aalameen. They wallow in the Athaab of Divine La'nat because of the implacable hatred and scorn they display for the Sunnah of Rasulullah (sallallahu alayhi wasallam) and for the immutable Divine Shariah of the Qur'aan and Sunnah. They seek to cover up the kufr they gorge up by attributing the Shariah of Allah Ta'ala to the opinions of the Ulama. But nothing can be further from the truth.

Just imagine! Modernists, Juhhaal, Munaafiqeen, Women's Lib., Maloonahs, quasi-theologians, renegade Maulanas and the like sitting on a panel to create a new 'shariah', and hoisting it on the Ummah in the name of Islam. Undoubtedly and most assuredly, this is a move that is doomed to fail, Insha'Allah.

Those who are poised to create a new sect like the many deviate sects operating under the Umbrella of Islam, can have their kufr MPL for themselves. But they cannot succeed in ramming their kufr down the throats of the Ummah—those Muslims who understand that Islam is the Shariah which Muhammadur Rasulullah (sallallahu alayhi

wasallam) delivered to us. For Muslims there is only the fourteen century old immutable Shariah. Muslims are not interested in the baatil which men of demented ‘imaan’ are fabricating in the name of Islam.

ALLAH’S WARNING

In the Qur’aanic verses which appear at the beginning of this Naseehat, Allah Ta’ala warns the Mu’mineen to beware of the snares of the agents of shaitaan and kufr. Allah Ta’ala commands that only His Shariah be followed. Decisions have to be made according to ‘what Allah has revealed’, not according to what the conglomeration of *juhhaal* and *mudhilleen* concoct with the aid of their munaafiqeen supporters and the anti-Hijaab-anti-Islam crowd of females spearheading the immoral western women’s liberation movement.

In these verses, Allah Ta’ala warns that the banal desires of the deviates should not be followed. Their desires and their law are the Law of Jaahiliyyah. The Qur’aan asks:

“What! Do they search for the law of Jaahiliyyah?”

Understand well, that the Maulanas and the quasi-maulanas who are hell-bent on advertising and selling MPL kufr, are searching for the law of Jaahiliyyah. A truly sad development in the MPL kufr saga is that some sincere Maulanas, due to lack of understanding or shallow understanding or lack of proper Islamic knowledge or lack of Taqwa have failed to observe the danger, the evil and the kufr of the MPL proposals presented by the hybrid Project Committee.

THE FOUNDERS

The illustrious Akaabireen Ulama of Islam have presented a very good yardstick by means of which the concepts and ideas of a movement could be measured. Look at the founders. Who they are. Look at their outlook and attitude towards the Sunnah of Rasulullah (sallallahu alayhi wasallam). The shadow of the founders of a measure or movement will always permeate and overhang the movement.

If the composition of the Project Committee is scrutinized and the silly and circus scenarios of its discussion sessions and workshops observed, a Muslim of healthy Imaan and correct Islamic understanding will not fail in observing the baatil, kufr and anti-Sunnah array of inimical forces who are all furthering the cause of shaitaan to dig the foundations of Islam.

ZAALIMEEN

Those masquerading as Muslims and given credibility by learned men who have already become imbecile in their thinking, are categorized as *Zaalimeen* (oppressors, unjust ones, in fact, kuffaar). The Qur’aan Majeed says about them:

“Verily, Allah does not guide a community of zaalimeen.”

This Project Committee which is painfully endeavoring to project an Islamic guise and colour for it, fits the Qur’aanic epithet, namely, ‘*al-qaumaz zaalimeen*’ or a committee of oppressors. This Project Committee which wants Muslims to believe that it is working in the interests of Islam and the Muslim community is in reality oppressing the Shariah of Allah Ta’ala by its attempts to mutilate it. This *mudhil* Committee has no right to speak in the name of Islam nor in the name of the Muslim Ummah. Its attempt to develop a new jaahiliyyah ‘shariah’ in the name of Islam must necessarily be restricted to its supporters. But this jaahiliyyah cannot be imposed on Muslims who claim and believe that this fourteen century Shariah is immutable

and sacrosanct. Not an iota of it can be or will be changed by Muslims. A Muslim can be guilty of the crime of neglecting the demands of the Shariah. He understands that his commissions are crimes. He accepts this and repents. But he cannot be a participant in a process which has assumed a role which even Rasulullah (sallallahu alayhi wasallam) did not have as a function of his Office of Nubuwwat. Abrogation of the Ahkaam and innovating new laws never were the functions of the Nabi. He only delivered the Laws of Allah—the Divine Shariah—to the Ummah. But this miserable Project Committee lacking entirely and absolutely in Islamic competence and Shar’i credibility, believes that it possesses the qualification and the divine right of cancelling Allah’s Shariah and enacting new kufr laws which it hopes to sell to Muslims by the manipulation of Islamic terminology. But everything called Muslim is not Islam.

THE DISEASE OF THE HEART

The Qur’aan Majeed states:

“You will see those in whose hearts there is a disease (of nifaaq and kufr) hastening among them (the kuffaar). They lament: ‘We fear that a calamity will befall us...’”

To justify the kufr proposals, the Project Committee presents the bogey of ‘hardships’ of wives and divorced women. In the absence of kufr MPL, an attempt is being made to trade the idea that wives and divorced women are suffering great hardships. If MPL is introduced these ‘hardships’ will be eliminated. On the contrary, the hardships will increase because MPL has necessarily to be subservient to the secular constitution which enshrines the kufr of gender equality.

Every act of Islam which is in conflict with the secular and kufr concept of equality of the sexes, is in violation of the secular constitution, hence cannot be accommodated in the secular courts. It is only a logical consequence for the kufr courts to decide in conflict of the Shariah. The MPL measures will necessarily have to be concocted in a way that will produce compatibility with the secular constitution of the country. Such forged and concocted compatibility logically results in incompatibility with Allah’s Shariah.

The compromise which the Project Committee proposes between the Shariah and the secular kufr constitution is plain denial of the Shariah. Any compromise is a shift from Allah’s law in a bid to make Jaahiliyyah law acceptable to Muslims. Without a marriage between the opposite laws (kufr law and Shariah Law), there can be no compatibility with the godless secular constitution. And, in the instance of a compatibility having been fabricated, the end result will be rejection of the Divine Shariah which does not admit or permit the slightest change in its Structure.

HARDSHIPS?

In its Discussion Paper 101, the Project Committee states on page 1:

“In the context of a secular state in which Muslims constitute a minority community the non-recognition by the state of the system of Muslim Personal Law, or aspects thereof, has caused serious hardships and produced grossly unjust consequences.”

The “*serious hardships*” mentioned here are not the consequence of “*the non-recognition by the state*” of any Islamic system or marriage, divorce, etc. Such hardships are the products of Muslim disobedience to the Shariah. Such disobedience are crimes committed by both hus-

band and wife, the latter generally be the more blameworthy for such hardships.

If the secular state does not recognize an Islamic marriage, hardship for Muslims is not a necessary corollary of such non-recognition. Tens of thousands of Muslims whose marriages are not recognized by the state suffer none of the imagined hardships posited by the Project Committee.

In the instance of the dissolution of the Islamic marriage, one spouse or both spouses, will experience hardship if the Shariah is ignored and the aid of the secular court is enlisted. If the parting spouses are obedient to Allah Ta’ala and submit to the Shariah, there is no hardship. Each one will accept the verdict of the Shariah which is obligatory on a Muslim.

However, when a spouse—in most cases it is the woman—rebels against the Shariah, and is not satisfied with the decrees of Allah Ta’ala, she indulges in flagrant kufr. She is not concerned with her rights as defined by the Shariah. In her greed and spite she enlists the aid of the kufr court. She brings hardship to her ex-husband in the following spheres:

- (1) She claims maintenance for herself for years in the future. Whereas the Shariah allows her maintenances for only the iddat, approximately three months, she desires to devour haraam and nourish herself and her children with the wealth she usurps from her ex-husband with the aid of the kuffaar courts.
- (2) She involves her ex-husband in costly court-proceedings.
- (3) She shrugs off any semblance of Islamic *hayaa* (modesty and shame) and stands in front of kuffaar judges in a kufr court washing her soiled linen in the presence of a kufr public. She is insensitive to the embarrassment she causes her ex-husband. She cannot be concerned because all shame—the natural attribute of Imaan—has been eliminated by her.
- (4) She rejects Islam’s laws pertaining to custody of children, and uses the secular courts to enforce jaahiliyyah law on the ex-husband, thereby denying him the custody rights which the Shariah has awarded him.
- (5) She claims maintenance for such expenditure which the Shariah does not permit, but which the law of Jaahiliyyah allows.
- (6) She grabs the property of her ex-husband with the aid of the kufr court in terms of matrimonial proprietary rights concocted by the secular law.

It is no secret that when there is any hardship at the end of a marriage, it is generally the husband who suffers. He is the victim of gross inequities inflicted on him by a constitution which proclaims itself to be the guardian of gender equality while the greatest inequality is displayed to the husband.

The divorced wife’s suffering is generally imagined. She imagines herself to be the victim of injustice and hardship because she is not prepared to submit to the Law of Allah Ta’ala. She is guilty of kufr, and she barter away her Imaan by giving preference to the law of Jaahiliyyah motivated by spite and enmity for her ex-husband, and by greed for his wealth.

HER SUFFERING

In rare instances where the divorced wife is made the victim of the man's oppression, her predicament can be alleviated by resorting to certain Muslim organizations which deal in such matters. There are forums in the Muslim community to deal with these issues. The Muslim organization will listen to her case and summon the man to attend. If he does not rectify the situation by donning his oppression and submitting to the Shariah, the woman still has the option of enlisting the aid of the secular court.

In almost every case, the errant man will quickly comply with the Shariah's verdict. He knows well that he will be the loser in the secular court, and he will be involved in exorbitant legal fees. The court will further impose on him the great hardship of having to maintain a strange woman for many years to come. But in terms of the Shariah, it is only the iddat period. No man in his sane mind will intransigently opt for the secular court when he can be let off the hook lightly by submitting to the Shariah.

In every aspect he is the loser if the secular court has to decide the issues. His Shar'i right of custody of his children will also be denied.

It is quite clear that when there is suffering on the dissolution of an Islamic marriage, it is usually the man who is the victim of suffering and hardship. In relation to him, this inequity and hardship are produced by kufr law. This position will remain even if some 'aspects' of so-called Muslim Personal Law are legislated. The man will always be at a disadvantage and will be the victim of gross inequity and hardship which are the natural and logical effects of a secular constitution further compounded by a hybrid, kufr proposal called MPL.

In spite of the concept of 'gender equality', the concern is more with superior rights for women whom the kuffaar and munaafiqeen perceive to be the victims of Islamic oppression.

COMPROMISE

Any compromise forged to make the Shariah or aspects of it compatible with the secular constitution, will weigh heavily against the man. Furthermore, such a compromise will not be an effect of the Shariah. It will not be a Shar'i hukm. It will be a law of Jaahiliyyah regardless of any Islamic hue with which it is painted.

ACCEPTANCE

The Islamic forum working on the dissolution of an Islamic marriage which is not recognized by the secular law, is in position to adopt measures and methods to compel the man to comply with the Shariah. Yes, it lacks this position in relation to the woman. If she is adamant in her rejection of the Shariah's Law, she will proceed to the kuffaar court at the peril of her Imaan. But most women in this age are not concerned with Imaan. MPL will not be able to change her attitude.

As a citizen of the country, she has a constitutional right to demand that she be governed by the secular constitution in the same way as it is applicable to all other citizens. She is under no legal obligation to opt for MPL. Should there be any such provision in MPL to compel her to choose the terms of MPL by virtue of her marriage having been registered according to MPL, then too, this confounded hybrid kufr law of Jaahiliyyah (MPL) will come up heavily in favour of the woman for the simple reason that the secular constitution with its evil 'gender equality' principles cannot be overridden by MPL. Every proposal of MPL must necessarily be interpreted in the light of the secular constitution. It will be accepted as law only if a shaitaan compatibility of incompatibles can be

achieved. But miscreants are adept in the art of 'compatibility' irrespective of the kufr this exercise produced.

The proponents of kufr compatibility are warned by Allah Ta'ala:

“DO NOT CONFUSE HAQQ WITH BAATIL.....”

MPL is precisely the cloaking of the Haqq with the baatil of kufr.

AND EVEN MPL DOES NOT LEGALLY RECOGNIZE THE CONSEQUENCES

On page 2 of the Discussion Paper 101, it is said: “A marriage contracted according to Islamic Law was regarded by our courts as null and void....., with the result that the marriage and its consequences were not legally recognized in any form.”

Far from ameliorating the situation, MPL will only add to the difficulties. What are the consequences of Nikah? By understanding these consequences, a better understanding will be gained of the empty words of the Project Committee. The consequences of Nikah are:

- (1) Maintenance of the wife and children in terms of the Shariah, not as envisaged by secular law and MPL.
- (2) Conjugal rights of both parties.
- (3) Confinement of the wife to the marital home.
- (4) She cannot embark on any trade and commerce without the consent of her husband.
- (5) Even her acts of supererogatory worship are circumscribed by the attitude of her husband.
- (6) Total obedience to the husband in all lawful things.
- (7) In the event of the dissolution of the marriage, she has to compulsorily remain in the marital home. If she refuses, she forfeits maintenance.
- (8) Her iddat period ends within three or five months generally. Then she is no longer entitled to nafqah (maintenance).
- (9) The Nikah does not create any matrimonial proprietary rights. She thus has absolutely no claim in the property of her husband when the marriage is dissolved by any procedure whatsoever. This position remains regardless of her having contributed money or labour and thereby assisting in the establishment of the family empire. In Islam she assists as a wife, not as an entrepreneur. If there is no express contract between the wife and husband regarding any input of money, the man cannot be Islamically held liable for any payment to her on the basis of kuffaar concepts and secular laws.
- (10) At a certain age the father gains custody of his children. His custody right is guaranteed at specified ages of the children.
- (11) The children's mother forfeits her right of custody if she marries a man who is not a very close relative of the children.

Almost all of these consequences of an Islamic marriage are in conflict with the secular constitution of the country. MPL cannot make us believe that its proposals of compromise will accept these Shar'i consequences as legal. In fact, MPL is a subservient appendage of the secular constitution should it be accepted for legislation. It has no option but to work together with the secular godless constitution to subvert the Shariah, to deny the Shar'i consequences of Nikah and Talaaq and to cause Muslims to submit to an admixture of supposedly Islamic measures and secularism, the end result of which is kufr.

Whether MPL becomes law or not, the position of the non-recognition of the consequences of an Islamic marriage will remain. But, the position without MPL is the lesser of the evils and allows for manoeuvring in a way to achieve the operation of the Shariah despite the circumscription of the secular constitution.

ASPECTS OF MUSLIM PERSONAL LAW?
On page 2, the MPL Discussion Paper 101 states: “The case itself focuses on the urgent need for a comprehensive recognition of aspects of Muslim Personal Law.”

The designation, 'personal' in relation to the Shariah is a misnomer. Every law of the Shariah is related to the Muslim person. No aspect of the Muslim's life is separated from the Shariah. All five Spheres of the Shariah are applicable to every Muslim. However, it is obvious that the Project Committee is using this term in a restricted sense. In the understanding of the Project Committee, Muslim Personal Law refers to matters pertaining to only Nikah and Talaaq, and nothing else. Only issues related to these acts of the Shariah are the subjects of MPL.

AMBIGUOUS

The restrictive meaning of the term is further confused by the ambiguity of the statement, “certain aspects of Muslim Personal Law”. The Committee does not define the “certain aspects”. With regard to the extremely limited scope of Muslim Personal Law in the conception of the Project Committee, the endeavour to gain recognition for only “certain aspects” is a further erosion of the Shariah. Despite the avenues of MPL being confined to only Nikah and Talaaq, the limitation is further restricted by the proposal to deal with only “certain aspects” of these two Shar'i acts. This by itself provides good insight of the machinations contemplated by the silly MPL 'bill'.

The intention is to gain kufr legislation enacted pertaining to “certain” undefined “aspects” of issues which are dubbed Muslim Personal Law. But Shar'i aspects cannot be isolated from the divine laws related to the whole and the full Hukm on an issue. It is thus not lawful in Islam to take for example the aspect of custody of children and amend this Shar'i law to achieve compatibility with the secular constitution. On attaining such a fusion and kufr compatibility, the new law cannot be tendered as a valid aspect of the Shariah simply by lumping it in with the many other invalid and kufr aspects under the designation of Muslim Personal Law.

The aspect of polygamy, for example, cannot be isolated from the Shar'i concept of this act. Polygamy cannot be said to have been given legality if it is circumscribed in a way to make it compatible with the kufr constitution. Accepting aspects of Islamic polygamy and rejecting some aspects is kufr. Such partial acceptance of a Shar'i Law in which some aspects are accepted, some rejected and some amended or tampered with to produce compatibility with the secular constitution is kufr. It is not Muslim Personal Law. Nor can it be said that some or certain aspects of the Shariah have been accepted. This is a great deception which most people have failed to discern.

AMMENDMENT

Amendments made to a law of the Shariah is tampering and mutilating the immutable Shariah of Allah Ta'ala. The application of 'aspects' of 'Muslim Personal Law' is not the application of the pure and unadulterated law of the Shariah. Once change is effected to a Shar'i hukm, it no longer is a law of the Shariah. Such change is baatil and haraam.

MUTLAQ

Mutlaq is the unrestricted laws of the Shariah. A law which is Mutlaq or unrestricted by extraneous conditions, may not be encumbered with even Hadith stipulations if the relevant Hadith is not of the proper category. This prohibition applies to a far greater degree when the extraneous conditions are the figments of men who dabble in the repugnant exercise of battering the immutable Ahkaam of the Shariah to make these compatible with a godless secular constitution.

An example of this kufr encumbrance of the unrestricted Law of the Shariah is the Project Committee's stipulation that a man requires the permission of the non-Muslim minister for contracting a second or a third or a fourth marriage. Allah Ta'ala has not encumbered a second, third or fourth nikah with any conditions. The permission is mutlaq-unrestricted—withstanding the moral restraint applicable to a man who believes that he will not be able to mete out justice to a plurality of wives. But regardless of the moral restraint, a man is not in need of anyone's permission for contracting a nikah, whether it be the first, second, third or fourth nikah.

Never in the history of Islam did any Islamic government impose any such restraints or conditions which this baatil committee is hell-bent on introducing solely to satisfy the secular constitution and committees of lewd women espousing the evil and immoral cause of women's liberation—liberation from hayaa and morality.

NO CONSENT

The Shariah does not consent to the imposition of restrictions in relation to laws which Allah Ta'ala Himself has left Mutlaq. Polygamy is permitted by many tribal societies. But the system of polygamy on non-Muslims is not Islamic polygamy. In the same way, the system of permitted or limited or restricted polygamy proposed by kufr MPL is not Islamic polygamy. It is an alien system fabricated to appease a secular law and to curry favour with lewd female committees who have long ago abandoned Imaan, but are deluding themselves with the idea that they are Muslims. They belong to the league of gays, homosexuals and immorals of every other kind, but not to Islam regardless of their vociferous 'Islamic' slogans.

A BLUFF

The aspect of 'a comprehensive recognition of certain aspects of Muslim Personal Law' is a deceptive aspect of the aspect of kufr termed MPL. It is a big bluff to convince Muslims that MPL is 'halal' - that it is in accordance with the Shariah when in fact it is the mutilation of the Shariah.

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GROSS INEQUITIES

On page two of the Project Committee's Discussion Paper, it is said:

"In the result, the current position is that the legislature has still not redressed the gross inequities and hardships arising from the non-recognition of Islamic marriages."

The 'gross inequities and hardships' are figments of the imagination of those who desire the MPL measure. Countless Muslims do not contract civil marriages. In spite of their Nikah being unrecognized, they do not suffer any gross inequities and hardship. The hardships are the effects of the disobedience of Muslims who refuse to submit to Islam. They feel that the demands of the Shariah on their wealth and the Qur'aanic system of the distribution of wealth is inequitable, hence they turn to the kuffaar courts for succour. In a secular country the Shariah cannot be imposed on recalcitrant Muslims. If Muslims themselves are averse to be governed by the Shariah, there is then nothing to be redressed.

EDUCATION IS THE NEED

The Muslim community needs to be educated about the Shariah. Instead of squandering millions in futile and destructive un-Islamic exercises and conferences such as MPL activities, Muslims need to be educated of the imperative importance to arrange their matrimonial, inheritance and other affairs in accordance with the Shariah in a manner which allows for maximum benefit and protection offered by the secular constitution.

To overcome the problems which arise for example when a Muslim dies intestate, Muslims should be educated to adopt the following measures:

(1) If for some reason they have to register their Nikah, they should not do so in community of property. They should choose the right matrimonial system provided by the secular government.

(2) They should leave proper Islamic Wills.

These two simple measures will obviate any hardship.

Similarly, hardships as a result of non-recognition of our Nikahs can be overcome by adopting the correct law of the secular government. There is absolutely no need to effect change to the Shariah for overcoming any problems resulting from the non-recognition of Islamic marriages.

THE ISSUES OF ATTENTION?

On page two of its Discussion Paper, the Project Committee states: "The issues requiring attention, inter alia, are:

- the status of a spouse or spouses in an Islamic marriage or marriages:
- The status of children born of an Islamic marriage:
- Difficulties in enforcing maintenance obligations arising from an Islamic marriage;
- The difficulties in enforcing custody of, and access to, minor children:
- The property consequences arising automatically from an Islamic marriage are not recognised at law, and therefore not enforceable."

All these issues are imaginary. And, if they are real, MPL cannot solve them by presenting measures which are in conflict with the Shariah. Let us discuss these issues.

(1) The Status of the Spouses

It matters not in the least if the spouse is not regarded as a legal wife by the secular law. Her legal status does not result in any hardship. If it does, the Project Committee should explain, and we shall answer, Insha'Allah. The society in which the spouse lives, even if this society is wholly non-Muslim, accepts that she is a true wife holding holy status. Irrespective of the legal status, no non-Muslim regards a Muslim wife, married in terms of the Shariah, to be a mistress of the man with whom she is living. In fact, even non-Muslims attach greater reverence for a church/musjid marriage than a civil marriage. It is precisely for this reason that non-Muslims marry in churches notwithstanding the legality of their marriages in terms of civil or secular law.

(2) The Status of The Children

There is no hardship resulting from the status of children of an Islamic marriage which is not recognized by the secular law of the land. We do not experience any of the imagined hardships in this sphere.

It does not matter nor brings about hardship if the secular law does not regard our children as legitimate. While the law does not accept the legitimate status of children of an Islamic marriage, the non-Muslim society in whose midst we live regard Muslim children as legitimate.

The Project Committee should define the areas of hardship which it believes result in the wake of the status of the children of an Islamic marriage. In fact, the secular courts enforce rights which the law of the land has enacted for illegitimate children. Maintenance, custody and access rights are enforceable regardless of the status of the child, of the spouses and the kind of marriage.

If a man refuses to maintain his minor children in accordance with the Shariah's stipulations, the divorced mother can, as a last resort, turn to the secular court for relief. But the problem is not the Muslim man. It is in his mundane as well as spiritual interests and welfare to support his children. He fully understands that should he fail in doing so, he will be inviting great hardship on himself if the woman proceeds to kuffaar court. The actual problem is the woman whose nafsaniyat the Project Committee is espousing at the behest of immoral women's groups.

(3) The Regulation of Termination

This is indeed a stupid issue of imaginary hardship. An Islamic marriage terminates according to the Shariah with Talaaq or Faskh or Khula' or Maut. There are Shar'i rules which regulate the termination process. Whether the secular regards a Muslim marriage as being terminated or not, it is not an area of hardship. When an Islamic marriage is not recognized in the first instance, the issue of termination of the marriage is superfluous.

The Project Committee should be specific regarding this issue and its imagined hardships.

(4) Enforcing Maintenance

There are no difficulties in this area. The Project Committee obviously has in mind enforcement by the secular courts, for it is only a secular court with coercive power backing it which can compel acceptance of its verdicts. If a Muslim recalcitrant Muslim husband shirks his Islamic obligations regarding his children, the mother can threaten him with legal action and even proceed to the secular court to compel the children's father to discharge his obligations.

The secular courts enforce maintenance obligations for even illegitimate children. There is therefore no substance in this imagined hardship. Non-recognition of an Islamic marriage does not cancel the woman's legal right of going to the secular court.

(5) Custody and Access Rights

The MPL measure is in fact denying the father his right of custody which the Shariah confers to him. It is not possible for the Shariah's custody system to be accepted by the secular authorities since it militates against the secular constitution and the laws arising from the godless constitution.

MPL does not promise nor can it promise that the Shariah's custody system will be accepted. Islamically unlawful custody of children is always granted to the woman by the secular courts. MPL supports this. MPL is not a measure designed to gain the man's Shar'i right of custody of his minor children at a certain age specified by the Shariah.

The Project Committee should eliminate the ambiguity and state with clarity what exactly it means by this issue.

(6) Proprietary Consequences

In presenting this issue, the Project Committee has blatantly stated a falsehood in the hope that it would go by undetected. There are no proprietary consequences "arising automatically from an Islamic marriage". The secular authorities therefore have no obligations of recognizing

any such imaginary proprietary consequences.

Nikah is not a business partnership. It is not a community of property system which gives rise to joint ownership of estates and assets. On the dissolution of the Nikah, the divorced woman is entitled to only nafaqah (maintenance) for the short iddat period, and nothing more. There are no automatic proprietary consequences to contend with as the Project Committee falsely claims.

DUBIOUS AND DEVIOUS

On page 3 of its Discussion Paper, the Project Committee states:

“Whilst appreciating the urgent and imperative need to redress the gross inequities and hardships through the legal recognition of aspects of Muslim Personal Law within the Constitutional framework, certain respondents have raised a crucial question: Would recognition of the system or aspects thereof be consistent with Islamic Law?”

Any Muslim of average understanding will reply: “Never! Recognition of ‘aspects’ of the Shariah and rejection of other aspects are not consistent with Islamic Law.

The following proposals of the Project Committee are noteworthy for understanding the kufr of MPL:

- MPL is striving for recognition of only aspects of Muslim Personal Law.
- This recognition of ‘aspects’ is also to be within the constitutional framework.

We have already pointed out earlier that ‘aspects’ in the context of MPL relate to a specific act, e.g. Nikah, Talaq, etc. It does not refer to the whole act, namely, Nikah with all its Shar’i details and particulars, or Talaq with all its detailed masaa-il. MPL proposes to get recognition for a few masaa-il pertaining to an act and ignoring the vast volume of Shar’i rules related to the act.

To compound its kufr and mutilation of the Ahkaam of the Shariah, the Project Committee will select certain aspects of a particular act, then bend, twist and amend these masaa-il to conform to the secular constitution to ensure that everything is “within the Constitutional framework”. It goes without saying that if this kufr synthesis is not accomplished, legal recognition is not possible.

It should be palpably clear that there is nothing Islamic in MPL. It only saddles Muslims with hardships and gross inequities which it seeks to conceal with flowery and deceptive language.

PARAMETERS OF ISLAMIC LAW

The Project Committee on page 3 of its paper of kufr states:

“The Project Committee in turn wishes to emphasise that it appreciates this concern. It has endeavoured to formulate the proposals contained in this Discussion Paper within the parameters of Islamic Law, and in accordance therewith.”

In the first sentence of this statement, this group sounds just like non-Muslims talking. When Muslims write to any non-Muslim authority to complain about any religious injustice or intolerance, the non-Muslim authorities invariably put up a pretence of concern for Muslim sensitivity. The Project Committee true to form, emulates the example of the non-Muslim secular authorities who have to be placated and satisfied in order to gain recognition for not ‘certain aspects’ of the Shariah, but for the kufr proposals of the MPL crowd.

PARAMETERS?

How can kufr ever be within the parameters of

Islamic law and in accordance therewith? How can a changed mas’alah, a mutlaq hukm encumbered with haraam stipulations ever be “within the parameters of Islamic law, and in accordance therewith”? How can penalising a man for contracting Nikah ever be within the parameters of the Shariah? How can it ever be within the parameters of Islamic Law, and in accordance therewith” to levy a heavy fine on a man who contracts a holy Nikah in the Name of Allah Ta’ala? Which ‘aspects’ of the Shariah are recognized in such haraam kufr proposals?

How can denial of the father’s custody rights be within the parameters of the Shariah? How can the right of marrying be denied to a Muslim adult be within the parameters of the Shariah? How can it ever be said that fixing the age of marriage to 18, is within the parameters of Islamic Law, and in accordance therewith”?

Fabricating ‘automatic proprietary rights’ for a woman who has contracted Nikah is not “within the parameters of Islamic Law”. Imperative need to gain permission from the non-Muslim minister of Home Affairs in certain cases of marriages is not “within the parameters of Islamic Law”. Compulsory registration of Nikahs and Talaq is not “within the parameters of Islamic Law”, nor is it “in accordance therewith”.

The custody of children system of the MPL is not within the parameters of the Shariah. In short, almost every proposal of MPL is beyond the confines of the Shariah. MPL is plain Jaahiliyyah Law. The question of the parameters of the Shariah simply does not arise. Kufr cannot be accommodated by the parameters of the Shariah nor can it be in accordance with the Shariah as suggested by the errant and doomed to perish committee.

FREEDOM OF RELIGION?

On page 4 of its paper, the Project Committee avers:

“Both the interim and Final Constitutions, in guaranteeing freedom of religion, provided that the State may pass legislation recognising systems of personal and family law, but subject to the Constitution.”

The qualifying statement: “but subject to the Constitution” negates the claim that the secular constitution guarantees freedom of religion. When it circumscribes and proscribes numerous acts and practices of religion, the claim of freedom of religion is deceptive and misleading.

In a secular state there is no guarantee for the freedom of religion. Muslims who are concerned about their Deen simply have to conduct themselves as best as they can to practise the teachings of Islam within the ‘parameters’ of the narrow confines allowed by the government in terms of the ‘freedom of religion’ principle. MPL seeks to further restrict the narrow confines allowed by the secular constitution for religious ‘freedom’.

While Islamic polygamy is not a crime in terms of the present secular constitution, MPL proposes to criminalise it. In the same way, Nikah of Muslim adults under 18 years is not an offence according to the secular constitution, but MPL has proposed that such perfectly halaal Nikahs be criminalised, but not zina which under 18 year olds and over 18 year olds commit.

In the stupid and kufr dispensation proposed by the Project Committee zina is lawful while Nikah in certain instances become unlawful.

If the Shariah has to be subjected to the secular constitution as MPL proposes, the end result is not the Shariah. It is a new law -the law of

Jaahiliyyah - fabricated in the name of Islam and presented to the community under false pretence—the claim that they will be receiving the unadulterated Shariah of the Qur’aan and Sunnah.

A BASELESS ASSERTION

In a footnote on page 4, the Discussions Paper, states: “The previous attempts, during the apartheid era, at securing recognition of Islamic marriages did not enjoy the support of the broader community, because they were inter alia perceived as giving legitimacy to the white minority regime and its unjust policies.”

Indeed, this committee has descended to a low ebb of falsehood in making this averment. At that time too he proposed MPL measure did not enjoy the support of the broader Muslim community, not because of the minority white regime, but because MPL was kufr even at that time. In view of its un-Islamic basis and its anti-Shariah proposals there was a hue and cry against it. The opposition of the Muslim community based on Shar’i grounds scuttled the attempt to hoist kufr MPL on Muslims. The very same people and/or people of the same ilk as those manning the present MPL kufr boat, spearheaded the MPL move at that time as well.

Even today, this kufr measure dubbed Muslim Personal Law, does not enjoy the support of the broader community of Muslims. It is this support which the Project Committee is canvassing in the hope of ramming its baatil and kufr down our throats.

Let us assume that by deception the broader support of the community is acquired. It will not matter in so far as the Shariah and the Ulama-e-Haqq are concerned. Kufr cannot be made acceptable and halaal by the “support of the broader community”. The majority is generally ignorant, astray and unconcerned. The Shariah is not the product of majority or minority opinion. It is the Divine Immutable Law of Allah Ta’ala with its source in the Qur’aan and Sunnah. Muslims at all levels, are under Islamic obligation to reject and denounce the MPL of the Project Committee. And, the Maulanas and quasi-maulanas serving with and supporting the Project Committee have the duty to jump off now from the wagon of kufr and baatil which has been hijacked by modernists and elements of immoral female liberation.

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‘MAXIMUM CONSULTATION’

On page 5 of its paper, the Project Committee states: “The purpose of the Issue Paper was to identify the issues and the problem areas, arising out of the investigation, with a view to maximum consultation with all interested parties and bodies, so as to obtain their responses and inputs in arriving at an appropriate solution to the issues and problems as identified therein.”

The Project Committee lacks understanding of even the rudiments of investigation and consultation, leave alone maximum consultation. They are palpably dishonest in claiming that it is their desire to attain “an appropriate solution to the issues and problems”. If they were truthful in this claim, the Shariah of Allah Ta’ala would have been uppermost in their minds. They would never venture to amend any Shar’i hukm.

It is blatantly false for this committee to aver that it had conducted ‘maximum consultation’ and that it had in fact properly investigated the issues concerned. The recent ‘workshop’ circus conducted by the Project Committee in Johannesburg was an eye opener for those who are opposed to this whole MPL exercise. The proceeding of the circus session cannot be justifiably said to have been a session for investigation and consultation, leave alone ‘maximum

consultation'. Further comment on the farcical 'workshop' gathering appears elsewhere in this issue of Al-Haq.

The proposals of the Project Committee are heavily biased in favour of modernists and women's groups. It has deemed it appropriate to subject the Shariah to radical and kufr change at the peril of the Imaan of its members. Judge Navsa's lament about kufr, which he made at the recent workshop meeting should be viewed in the light of the slide into kufr of the MPL clique. The members of this committee should probe a bit the Islamic meanings of Imaan and Kufr and understand that they are not lawmakers in so far as the Shariah is concerned. They are all ordinary laymen who have no Islamic right to formulate views on Shar'i subjects. Their academic qualifications in branches of mundane knowledge do not elevate them to the ranks of the Fuqaha. They are infants in Shar'i Knowledge. In fact, they are on a lower level than the group described in Rasmul Mufti as 'Haatibul Lail' (Gatherers of firewood in the dark night). They know not on what their hands fall—whether on a snake or on najaasat. Only when bitten by a snake or thwy perceive the foul stench of the najaasat on their hands, do they become somewhat alert. This description of the Islamically unqualified Project Committee applies to the quasi-theologians as well as to such Maulanas who have become blind to the kufr manipulation of the Shariah by the evil and anti-Sunnah forces lurking in the shadows, waiting opportune moments for digging up the foundations of this Deen of Allah Ta'ala. It is the fardh obligation of the Ulama-e-Haqq to speak up and fulfil their duty of protecting Islam. The gravest danger to the Divine Shariah is the type of maulana and sheikh and half-baked molvi who subject the Qur'aan and Sunnah to their whimsical and nafsaani opinions.

About such slaves of opinion, Hadhrat Unar Bin Khattaab (radhiyallahu anhu) declared:
"Verily, the companions of (personal) opinion are the enemies of the Sunnah."

For them there is the following severe warning of Rasulullah (sallallahu alayhi wasallam):
"He who speaks about the Qur'aan with his opinion, should prepare his abode in the Fire (of Jahannum)."
Those on the Project Committee and those who are supporters of this kufr MPL exercise, if they have any value for Imaan and their destination in the Aakhirah, should reflect and reconsider their position, stance and direction.

JUHALA AND FUSSAAQ
Consultation with juhala and fussaaq (the conglomeration of modernists, ignoramuses and women's lib groups) on matters of Shar'i import is NO consultation whatsoever. This committee has hardly investigated the issues in the light of the Qur'aan and Sunnah. In the first instance it is not qualified to formulate opinions on its own merit since it is wholly deficient in Islamic merit. Its image is not enhanced in any way by the presence of a Maulana who has turned his back on the Immutable Shariah of Allah Ta'ala. Nor does the presence of a junior quasi-theologian give any credibility to the opinions of this unqualified and incompetent committee which has arrogantly arrogated to itself the right of amending and mutilating Allah's Shariah. Islamic Law cannot be trifled with.

Islamic Law is not up for interpretation, misinterpretation, distortion, amendment, change and mutilation. This is exactly what the juhala are subjecting Islam to. Allah Ta'ala is The Protector of His Deen. Islam has withstood the nefarious plots and attempts of the people of baatil and of the ulama-e-soo' in every age of its history.

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CHOICE OF MARITAL SYSTEM
On page 5 of its paper, the Project Committee states:
"The following tentative proposals were put forward in the Issue Paper:
* Couples contemplating a marriage should have the right to choose a marital system which is compatible with their religious beliefs and with the Constitution."

Now what was he need for this proposal. It is absolutely redundant since every couple, Muslim or non-Muslim, presently has the right in terms of the Constitution to choose any marital system. The constitution does not bind couples to adopt any particular marital system. Without MPL, Muslims are free and allowed to choose any marital system which is legal in secular law. In fact, they are allowed to abstain from all marital systems as well. So what is the utility of this proposal?

The Shariah has not bound marrying couples to any marital system. In fact, Islam has no matrimonial property system which gives rise to proprietary rights as envisaged by kuffaar law. There is no clash between the Shariah and the secular constitution on this issue. Why then present a superfluous proposal which display stupidity. Is it stupidity or perhaps a sinister design?
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OUTRIGHT KUFR

On page 6, this unfortunate committee states:
"In the case of new marriages, the legislation should provide at least for the following matters:
(i) the age of consent, which should be 18 years."
On the same subject, the Project Committee states on page 45 of its Discussion Paper:
"Requirements for the validity of Islamic marriages

The minimum age is proposed at 18 years, and this appears to be accepted by the majority of the respondents to the Issue Paper.

Should a prospective spouse be under the age of 18 years, provision is made on clause 5(5) for permission to marry to be granted by the Minister or a recognised body or person authorised by him or her."

In Islam the 'majority of respondents' is not a criterion for Ahkaam. In fact, the consensus of opinion of the entire Ummah (which is not possible) is devoid of Shar'i substance and of no validity if it is in conflict with the Ruling of the Shariah which was completed and perfected during the very age of Rasulullah (sallallahu alayhi wasallam).

Furthermore, the 'majority of respondents' canvassed by the Project Committee are juhala and fussaaq who have no standing in Shar'i Uloom. The acceptance of kufr by this conglomeration of misfits and Islamically uneducated personnel is not a basis for anything in the Shariah, leave alone the dastardly exercise of gaining acceptance and legality for kufr such as the committee's proposal to fix the minimum age of marriage to 18 years.

Do the misinformed and uninformed members of the project committee realize that hundreds of Muslim girls in the small Muslim community of South Africa marry under the age of 18 years? Are these uneducated people then so dull in their minds to fail to understand that Islam permits adults under the age of 18 to freely marry even without the consent of their parents? But this committee proposes to take away the

inherent Islamic right from Muslim adults and circumscribe Nikah with the consent and authorisation of a non-Muslim minister (or mistress or mistress, whatever she is called).

In tendering this proposal, this committee and its Maulana advisor, are guilty of the attempt of abrogating the Shariah's law on the issue of age of consent. In the attempt to cancel a right which the Shariah has awarded to a Muslim adult—the right to marry unencumbered with permission, least of all the consent of a non-Muslim—the committee is guilty of outright kufr. It has opined that the unfettered right Allah Ta'ala has awarded to under 18 year olds is erroneous and has to be necessarily proscribed. By implication, the Maulana advising the hybrid committee, is saying that the Consent of Allah Ta'ala is inadequate for the validity of Nikah. Such validity requires the consent of a non-Muslim secular minister of government. The Maulana should reflect and understand the kufr he is condoning. Is he going to wait for Maut to gain this understanding? Well, Maut is not far off. The Maulana Saheb should watch his age and try to fathom what actually he is guilty of. May Allah Ta'ala protect us all against the evil lurking in our nafs. It blinds a man and makes him totally oblivious of the Reckoning tomorrow in Allah's Court.
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COMPETING RIGHTS?

On page 7, the project committee proposes:
"Competing rights in the event of an existing civil marriage and a subsequent or prior Islamic marriage have to be addressed."

What are these 'competing rights'? Who are the competitors? How should such imaginary competition be addressed? The committee is silent on this ambiguous proposal.

In the first instance, according to the Shariah, wives have no competing rights in the estate of their husband. The several wives a man has are joint inheritors in his estate in the event of his death. While he is alive, they are entitled to equal nafqah (living expenses).

If the issue of competition develops, it will be initiated by a wife who is either ignorant of the Shariah or who simply does not care about the haraam consequences of her greed and spite. She will simply eke out capital from a haraam matrimonial system which her ignorant husband had opted for.

MPL cannot alleviate this problem. The matrimonial system which favours one wife, and which has already been adopted by the couple when the civil 'marriage' took place, cannot be constitutionally circumscribed by MPL proposals. It will make a mockery of secular constitutional law if 'competing rights' are addressed by the stipulation of restrictive conditions to existing civil matrimonial systems applicable to all segments of South African society. Surely, the project committee cannot be as naïve as all this!
If a couple had chosen the community of property system, this cannot be unilaterally cancelled by any spouse. If an errant woman who has no fear for Allah Ta'ala and no regard for His Shariah, refuses to allow a prior or a subsequent wife or wives to participate jointly and equitably in her husband's estate in terms of the Shariah, she can legally invoke her constitutional right to debar the other wives from acquiring their rightful Shar'i right. The MPL cannot satisfactorily address this problem in view of the constitutional right of the wife who had the misfortune of being saddled with the haraam community of property matrimonial system. It is precisely for such reasons that the theme of "within the framework of the Constitution" per-

meates the whole MPL kufr exercise.
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THE LAMENT OF THE JUDGE

At the project committee's recent 'workshop' meeting held in Johannesburg, Judge Navsa, the leader of this committee lamented:

"With the labelling of people as kuffaar; it's a very easy thing to label people unbelievers.".....

The honourable Judge is a lawyer and an academic. It does not behove a professional man to react emotionally, lament and wail when criticized. If anyone has labelled the project committee members as kuffaar, he should enter into dialogue with such persons and endeavour to ascertain their basis for this label. If there are valid Shar'i grounds for the label, the committee members should rectify their attitude, repent and refrain from acts which justify the label. It is expected of an academic and a westernized judge to approach issues and criticism rationally, not emotionally.

While we maintain with emphasis and clarity that the MPL exercise is kufr, we have as yet not labelled either the Judge or his companions on the committee as kuffaar. But we do claim that their proposals or some of these are kufr. Now if a man is guilty of kufr, he should expect the label. This is a Shar'i issue which cannot be denied nor overlooked. When a man tampers with Allah's Law, he is guilty of kufr. When a man prohibits what Allah has made lawful and vice versa, he is guilty of kufr—such kufr which expels him from the fold of Islam.

LAMENTING

Lamenting and displaying emotionalism and trying to depict the opposition as bigots and fanatics will not save the skin of the one who is guilty of kufr. Taubah and abandoning the kufr are the fundamental requisites for rectifying the bond with Allah Ta'ala.

We say without any ambiguity that the project committee members are guilty of kufr. They have tampered with the immutable Shariah. They are hell-bent on changing Allah's laws. They propose restrictions for acts which Allah Ta'ala has left unrestricted. They are guilty of interpolations in the Shariah. They have embarked on this dangerous exercise, not for the benefit of Muslims. There is no benefit for the community in this confounded MPL exercise. The desire to make the Shariah—the Qur'aan and Sunnah—conform to the secular constitution is to placate the medley of diverse opinions of a variety of bodies and organizations, largely consisting of Islamically unqualified personnel. In fact, anti-Sunnah elements such as the rejectors of Hadith and women's lib groups—groups which are mal-oon in terms of the Hadith of Rasulullah (sallallahu alayhi wasallam).

THE KUFR

We enumerate here some of the kufr proposals of the project committee:

* Allah Ta'ala permits a Muslim adult to marry without anyone's consent. The latest age of adulthood in Islam is 15 years. But the project committee rejects this Divine ordinance and fixes the age at 18 years.

* Allah Ta'ala permits a man to marry more than one wife without the need to gain consent from anyone. But the project committee proposes that the consent of a non-Muslim government official is imperative for the validity and permissibility of nikah.

* In the Shariah of Allah Ta'ala, nikah is a holy bond. But the project committee proposes that this holy bond be criminalised and the man who enters into nikah be penalised with a heavy

fine. Yet it has not ventured to propose that zina be criminalized and penalized. If criminalizing Nikah can be made compatible with the secular constitution, why cannot zina also be criminalized within the framework of the constitution under the aegis of MPL? And, if it just cannot be criminalized while Nikah can, then it should be sufficient cause for a Muslim who has a proper understanding of Imaan, the futility of this dunya and the reality of the Akhirah to bid farewell to the committee of kufr and shaitaniyat.

* The attempt to encumber the Islamic system of Talaaq with the Divorce act, 1979, is likewise kufr. Systems of the Shariah may not be altered, amended or encumbered with man-made laws which are generally aspects of Jaahiliyyah law.

* While a Nikah is valid in the Shariah if the Shar'i requirements are satisfied, the project committee rejects this, and proposes that the nikah will be valid only if both parties have attained the age of 18 years. Are the project committee's members so blind as to be unable to see the kufr inherent in this stipulation?

If a 15 year old boy and a 15 year old girl enter into a Nikah contract without the consent of their parents, and without the consent of a non-Muslim minister of the state, will the Nikah be valid in the Shariah? The Judge Saahib should seek a fatwa from Mufti Taqi Uthmaani Saheb whom he (the Judge) is hanging onto for succour like a drowning man clutching at every passing straw.

Allah's Shariah decrees that such a Nikah is valid, but MPL says that it is not valid. The kufr is evident. The Judge, surely can understand this point or should understand it. After all, he is a lawyer who should be adept at splitting hairs.

The MPL paper is cluttered with anti-Shariah proposals. The Judge should therefore not be surprised when he hears the label of kufr. He will not assist him in any way to regain his emotional equilibrium by taking umbrage when evil is labelled evil.

ISLAM SAYS THE NIKAH IS VALID MPL SAYS IT IS NOT VALID

On page 54 of its paper, the project committee states:

"No spouse in an Islamic marriage recognised in terms of this Act may, after the commencement of this Act, enter into a marriage under the Marriage Act, 1961 (Act No.25 of 1961) during the subsistence of such Islamic marriage."

What about the Act of the Shariah? The Shariah says that a spouse can enter into marriage during the subsistence of a Nikah, but MPL proposes this to be invalid and a punishable offence. What does Mufti Taqi Saheb say regarding the validity of a Nikah contracted in conflict with the provisions of the secular marriage acts?

PROVISIONS OF THE MARRIAGE ACT

On page 54, the project committee proposes:

"If the consent of the parents or guardian as referred to in subsection (3) cannot be obtained, the provisions of section 25 of the Marriage Act, 1961, applies."

If the spouses are adults in terms of the Shariah, their nikah will be valid irrespective of the provisions of the secular marriage act. But, MPL proposes that this Islamically valid Nikah be declared null and void.

THE NON-MUSLIM MINISTER VS RASULULLAH (sallallahu alayhi wasallam)

On page 54, the project committee proposes:

"Despite the prohibition in subsection (1)(a), the

Minister or any person or body authorised buy him or her, may grant written permission to a person under the age of 18 years to enter into an Islamic marriage if the Minister or the said person or body considers such marriage desirable and in the interests of the parties in question."

The honourable Ulama-e-Haqq will be aware that Rasulullah (sallallahu alayhi wasallam) has emphasised marriage immediately on the attainment of buloogh. He registered such concern on this issue that he warned of great fitnah (immorality/fornication) with its vile consequences if the nikah of baalighah girls is unnecessary procrastination in the marriage of baalighah girls. Many girls attain buloogh before even 15 years.

To appease the women's lib groups and other modernist fussaaq bodies, the project committee speaking in the name of Islam, proposes that this order and emphasis of Rasulullah (sallallahu alayhi wasallam) be set aside and a weird compatibility be forged with the secular constitution.

It is only appropriate to ask the members of this committee, in general, and the Maulana Saheb in particular, to examine the state of their Imaan. With what Imaani conscience can a Maulana sit on a committee which rejects the command of Rasulullah (sallallahu alayhi wasallam) to curry favour with juhhaal, fussaaq and others worse than fussaaq.

The project committee in following in the shaitani footsteps of secular, non-Muslim law, makers, is aiding the process for opening avenues of zina in the Muslim community. The Judge Saheb should therefore not lament when some people say that the 'gunah' (sin) of zina committed by those who are prevented from Nikah is his liability.

In his opening address at the recent workshop meeting in Johannesburg, Judge Navsa lamented:

"In respect of the first one (i.e. fixing the marriageable age at 18), we were told that if these children were fornicating, the ghunaa (gunah) would be ours.....But if we regulate polygamy and if people went to escort agencies, the ghunaa (gunah) will be ours, Astaghfirullah!"

The Judge and his other compatriots will have to recite 'Astaghfirullah!' in abundance, and with sincerity for the validity of Taubah. He should not be surprised when people hold him liable for the gunah (sin) of fornication perpetrated by, not children, but by adults—baaligh persons. While these adults will not be able to save their skin and escape Allah's Wrath by arguing that the Judge Saheb and his committee had prevented them from nikah when they were under 18, the Judge and his other members are also liable for this fitnah which Rasulullah ((sallallahu alayhi wasallam) declared would follow in the wake of impediments placed in the path of early Nikah. Early nikah is marriage on attaining buloogh.

While we can understand that the project committee members lacking in adequate Shar'i knowledge conjecturing stupid, haraam and kufr proposals such as the one we are discussing now, it is totally unacceptable that a Maulana sitting with them, condones such violently un-Islamic and anti-Shariah proposals for imposition on the Muslim community.

Not only is the project committee unconcerned about the rising tide of immorality in a Muslim youth increasingly becoming alienated from Islamic Morality, it in fact promotes the opening of avenues of fitnah, immorality and zina by

its inimical proposals of restraint on Nikah. Indeed it is Islamically imperative for the project committee to disband.

In his opening address at their workshop gathering in Johannesburg, Judge Bava said: "We took advice from Mufti Taqi Uthmani who is a respected jurist in Islamic countries. And we've got a written fatwa from Mufti Taqi Uthmani, who confirmed that what we've been doing, provided that we sort out the wording, it will be acceptable."

The Judge Saheb and some others on his committee should not seek to browbeat us with names. Mufti Taqi Saheb has become a convenient refuge for liberal minded men bereft of Shar'i daleel. When they are unable to furnish Shar'i proof for their claims and proposals, they seek refuge in the taqleed of Mufti Taqi Saheb. But let it be clearly understood that the Ulama-e-Haq are not the muqallideen of Mufti Taqi Saheb notwithstanding the fact that he "is a respected jurist in Islamic countries".

Let all those who are concerned be known that we are the Muqallideen of Imaam Abu Hanifah (rahmatullah alayh), not the followers of Mufti Taqi Saheb. With due respect to his seniority, Hadhrat Mufti Taqi Saheb is a junior in relation to our Akaabir Asaatizah, and an infant in knowledge in relation to the Akaabir Ulama who were the Asaatizah of our Asaatizah.

The Judge Saheb is a westernized academic who must be priding himself with his enlightened approach on the basis of rationalism. It does not behove a western-educated lawyer, academic and judge of the sexculkar supreme court to attempt to silence us or steamroll us with the attempt to impose the taqleed of Mufti Taqi Saheb. The lawyer should come up with rational grounds based on the Shariah to refute what we are saying. We do not accept what Mufti Taqi Saheb has averred, and we shall provide our Shar'i grounds for refuting the contentions of Mufti Saheb—those contentions which are in conflict with the Shariah.

Judge Saheb, this is an 'enlightened' age of freelancing. It is indeed ludicrous for the Judge to believe that the matter is settled with the opinions tendered by Mufti Taqi Saheb (Daame Barakaatuhu).

THE DISCUSSIONS

What exactly did the Judge discuss with Mufti Taqi Saheb? What were the Mufti's responses? Did the committee which had done the task of so-called investigation and 'maximum consultation', bother to inform the Muslim community publicly of the outcome of the talks with Mufti Taqi Saheb?

Some of the comments of Mufti Taqi Saheb are reproduced here.

(1) "It (I.e.MPL) has some positive and some negative aspects which need to be thought carefully and dealt with precaution. If you don't have a Shariah law, that is a drawback for a Muslim society, but if we have a Shariah law but it is distorted or it bears the name of Shariah, but is actually not Shariah compliant, then this situation may be worse than the first one. So therefore we must be very cautious while designing this MPL bill."

This is what we are claiming. The project committee's MPL 'bill', far from being compliant with the Shariah, is in conflict with the Shariah. We have already discussed several such conflicts in this issue as well as in an earlier issue. MPL is a grossly distorted proposal presented in the name of the Shariah. Undoubtedly, the "situation will be worse than before" if Muslims

accept an MPL law which is compatible with the secular constitution.

MUFTI TAQI'S COMMENTS

It is misleading for the Judge to cite Mufti Taqi Saheb in a manner which conveys the idea that he is in full agreement with the kufr MPL proposal of the project committee. The following are some of the noteworthy comments of Mufti Taqi Saheb, which he made during March 2002:

"I have some limitations while expressing my opinion on these issues that have been put forward. The limitations are:

- I am not fully aware of the legal background in which this bill will operate.
- I am not aware to what extent the government of South Africa is willing to accommodate MPL and the demands of Muslims.
- I had no opportunity to study each and every issue in depth.....I am always involved in a number of involvements and did not have time to fully concentrate on these issues.

Mufti Taqi Saheb had not studied the MPL proposals in depth. He is therefore not in a position to qualify him to express any categorical and absolute Shar'i opinion on the basis of his cursory glance of the few questions which the votaries of MPL had posed to him, leave alone the whole Discussion Paper which the venerable Mufti may perhaps have not even seen.

In spite of Hadhrat Mufti Taqi Saheb (daama barakaatuhu) being uncognizant with the issues, he was called to South Africa to express his opinions on issues and proposals which hover around kufr. Is this issue then so insignificant? Does Judge Bava expect us and the Muslim community to simply submit to opinions which are based on conjecturing, not on Shar'i facts? It is most unacademic and irrational for Judge Navsa to persuade the Muslim community to accept MPL on the basis of unsubstantiated opinions of a learned scholar of this age.

Will Judge Navsa Sahib, when deciding a case, when convicting and sentencing a man, rely on his personal conjecturing and feelings without making an in-depth study and without ruminating on all facts and angles pertaining to the case? Is the Deen of Allah Ta'ala so cheap in Judge Navsa's opinion that he is prepared to accept the opinions of a contemporary Islamic scholar when such opinions are unsubstantiated and not backed by an in-depth study and investigation of the issues? Without any fear of contradiction from our fellow Ulama-e-Haq, we can claim that truly, the Immutable Shariah of Allah Ta'ala has become a toy for modernist academics schooled in western institutions, but who are bereft of proper Islamic Knowledge.

THE COMPOSITION OF THE COURT

The vital appendage for the enforcement of kufr MPL is the secular court. In this secular country Shariah courts are out of the question. This presents an insurmountable problem which the project committee proposes to overcome by simply ignoring the imperative need of a pure Shariah Court or its equivalent in a non-Muslim state.

Judge Navsa in his address at the workshop meeting in Johannesburg said:

"We took advice from Mufti Taqi Uthmaniand he is a respected jurist in Islamic countries. And we've got a written fatwa from Mufti Taqi Uthmani who confirmed that what we've been doing, provided that we sort out the wording, it will be acceptable."

This statement is exceedingly devious. Did the project committee release the "written fatwa" of Mufti Taqi Saheb for the scrutiny of the Ulama? Was this "written fatwa" made public to the

Muslim community? Or was it treated as top secret for reason? Were Mufti Taqi's comments made subsequent to his "written fatwa" placed on the agenda of the project committee at its workshop meetings and at other meetings and at meetings with Ulama? If not, why? Judge Sahib, you have a moral obligation and a duty in terms of your rank and the office of MPL you are occupying to have made public the full question your project committee posed, the Mufti's "written fatwa", and above all, his subsequent comments after he had given the "written fatwa", i.e. when he came to South Africa in March after he had issued his "written fatwa" out of which you are attempting to eke support for your MPL kufr proposals. Let us now commence the process of dissecting this "written fatwa".

(a) The Question posed by the MPL protagonists, viz., the project committee

On 4th February 2002, in a letter to Mufti Taqi Saheb, the votaries of MPL, posed the question: "A judge sitting with two Shariah experts (as assessors) will determine disputes such as faskh. The decision of the majority is the decision of the Court. The judge may be a non-Muslim. Is this permissible?"

In response to the above question, Mufti Taqi Saheb furnished his opinion in a letter which is the "written fatwa" about which Judge Navsa crows so much. The venerable Mufti Saheb says: "Normally the unanimous standpoint of all the recognized jurists of Islamic Fiqh is that a non-Muslim judge cannot adjudicate the disputes between Muslims. Therefore, all efforts must be made to convince the government to establish a separate Muslim Court or at least a Muslim Bench consisting of Muslims only for deciding the cases of Muslim Personal law. If the government does not accede to this demand for any reason then the formation of a Muslim Bench comprising two Muslims and one non-Muslim judge may be acceptable if the decision follows the majority view of the Muslim Judges. Although there is a possibility in the proposed scheme that a Muslim Assessor and a non-Muslim judge form the majority, but this possibility can be eliminated by binding the two assessors by the injunctions of the Shariah and by adopting other measures reflecting their agreement, like following the Fatwa of a recognized body of Muslim Ulama."

Essentially, the hybrid court referred to in the question and in the answer, is presented as a probability by Mufti Taqi Saheb. In his answer he only presents his personal opinion unsubstantiated by any Shar'i daleel. For the present we shall shelve our criticism of the view propounded in the opinion which Mufti Taqi Saheb has presented in his answer (above). Our criticism is superfluous in view of the comments of Mufti Taqi Saheb which had expressed subsequent to his opinion which forms part of the "written" imaginary "Fatwa" which our learned Judge Navsa is peddling in a bid to sell MPL.

After Hadhrat Mufti Taqi Uthmani (daama barakaatuhu) had issued his opinion in response to the 4th February 2002 letter, he came to South Africa. At the discussion which he had with MPL votaries and opponents, the Mufti Saheb commented as follows:

Reproduce pages 2, 3, 4

Mufti Taqi's comments

The salient facts of Mufti Taqi's lengthy comment are:

- The uncompromisable position of the Shariah is that only a Muslim judge can decide on these issues in a court.
- Any decision made by a non-Muslim judge is not acceptable in any School of Islamic Jurisprudence.

- In the unanimous opinion of all the Ulama of the Islamic Fiqah Academy of Makkah the decision of a non-Muslim judge is not recognized in the Shariah.
- This is such a principle on which compromise is inadmissible.
- The present MPL proposal suffers from a number of defects.
- If a court compromising of only Muslims is not possible, “we have to return to our Ulama Councils.”
- The first priority is to have the court/bench comprising of only Muslims.

Some of the comments of Mufti Taqi Saheb can be validly criticized on Shar’i basis. Insha’Allah, such a critique will be forthcoming in another issue of Al-Haq. Here it suffices to draw attention to the salient facts around which Mufti Taqi’s comment revolves.

These comments which he made subsequent to his opinion expressed in the “written fatwa” throws considerable light on his earlier opinion. Although the Mufti Saheb somewhat entertains the idea of a hybrid court, albeit with stringent reservations, there is no fatwa and no blanket permission for this type of court in the Shariah. There is absolutely no capital for Judge Navsa in the “written fatwa” of Hadhrat Mufti Taqi Saheb.

THEIR MAXIMUM CONSULTATION

In an attempt to convey to the Muslim community that the project committee is in “maximum consultation” with the Ulama, Judge Navsa said at the workshop meeting:

“We took advice from Mufti Taqi Uthmaani.....I also met with the chief Qadhi of India at Daarul Uloom Zakariyya....I have listened to the Alims very attentively, Moulana (Jeena) can tell

you that never once in our deliberations with any Ulama have we shown any disrespect. Have we not listened? Have we not taken their advice? So this is not an Ulama-unfriendly project committee and that’s the position we’ve adopted.”

At the meeting with Mufti Taqi Uthmaani Saheb during March 2002, Mr. Abu Bakr Asmal made the following comments:

“One other point is that Shuaib (Mr. Shuaib Omar of Durban) is chairing the meeting and he says: “make your submissions—we’ll consider them.” But we are sitting at the second stage of drafting this bill. All the submissions of the Ulama bodies have not been taken into account. They have actually been criticized. Yet the submissions made by the people of the gender commission or by individuals who are no Muslims or are Muslims but have no Shariah training — those submissions were praised and recommended and commented on. So I think he (Shuaib) is going to say: ‘Make your submission.’ And, I can tell you now that this project committee with its track record has shown that they are not prepared to consider the substantial representations of the Ulama here. This has been happening over and over again. We have spoken to him both in private and in public and in sessions like this in front of the said Qadhi Mujahidul Islam, but yet all those decisions were not fulfilled in the Issue paper and the draft bill. There is something seriously wrong in this process which has been adopted and I think there are some individuals, whoever they are, who are determined to push a certain type of program and impose the secular root upon us. So I think this has to be examined and questioned as well.”

We think that this is adequate commentary on the Judge’s claims of listening to the Ulama.
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THEIR STYLE OF LISTENING

During the course of the meeting, Mufti Taqi Saheb, speaking on the minimum allowed age of marriage, said:

“According to my view, this is totally unacceptable. Therefore we should take a resolution on this, This issue has been discussed thoroughly by the Ulama in India and there are many books written on this and their unanimous decision that this (minimum age of 18) is not permissible. Therefore, this clause should be deleted. There is no bar on us that we must provide this in our Muslim Personal Law. It was unanimous that this clause would be deleted.”

In spite of this unanimity and the very clear position of the Shariah, the project committee displays its kufr proposal in response, in its proposed draft bill:

“The prospective groom must have attained the age of 18 years, and the prospective bride must have attained the age of 15 years.”

Shamelessly the project committee in defiance of the Ulama’s unanimous verdict and in defiance of the Shariah persists in its kufr proposal. But it wants Muslims to accept that its brand of MPL is ‘Shariah compliant’, in fact, that it is the Shariah.

In the light of this dubious attitude of the project committee, we can justifiably conclude that the MPL committee is Ulama-unfriendly and Shariah-unfriendly. Now can anyone be decried when he searches for sinister agendas in the committee?

The Daarul Ifta of Madrasah In'aamiyah, Camperdown (Natal), issues the following WARNING regarding the project committee and its MPL proposal:

The Ulama Fraternity is disgusted with their procedures. They seem to have an agenda to drive forward the MPL notwithstanding the great dangers it presens to the pristine purity of the Shariah.

INTENTIONS

The stark kufr in the proposals of the project committee, their flagrant disregard for the Immutable Shariah of Islam, their over-eagerness to satisfy the haraam fancies and opinions of even women lib and so-called activist and gender groups—the conglomeration of mal-oonaahs, their refusal to accept what the Ulama explain to them of the Shariah and their deceptive employment of the name of Hadhrat Mufti Taqi Uthmaani (daama barakatuhu) are ample testification for the sinister motives—un-Islamic agenda—of this miserable Project Committee.

Who do they think they represent. Neither is this MPL the voice of the Shariah nor the voice of the Muslim Community. Yes, it represents the bulk of the anti-Shariah forces it has consulted—the juhhaal, fusaaq and mal-oonaahs. Its members are bereft of Sdhar’l Uloom, devoid of any semblance of Taqwa, yet they are over-eager to represent this Shariat-e-Mutahharah which was completed and perfected in the Heavens, nay under the Arsh. In fact it was completed in the Eternal Knowledge and Command of Allah Ta’ala. Today a group of miserable gentlemen of the West, who do not have the slightest resemblance, zaahiran and baatinan, with Rasulullah (sallallahu alayhi wasallam) and his illustrious Sahaabah, have assumed upon themselves the kufr role of mutilating this wonderful Shariah for which we live and die. The Ulama-e-Haqq cannot allow this. We cannot be silent observers to the shaitaani disfigurement of the Immutable Shariah of Allah Ta’ala, and that to in the very name of Islam.

It is the bounden and Waajib obligation of he Ulama-e-Haqq in all the Madaaris and wherever they may be in the country-the seniors and the juniors of this Holy Fraternity – to speak up, loud and clear in condemnation of this insidious MPL proposal manufactured scuttle the Shariah by the Miserable People’s League. The Ulama-e-Haqq should remember that hey are the Institution divinely established for the preservation of the Deen of Islam. They therefore, dare not sit as idle and detached observers while modernists, juhhaal, fussaaq, mal-oonahs and renegade molvis are involved in the vile exercise of dismantling the Shariah of this Deen.

The Project Committee should not labour under the stupid notion that men of intelligence cannot discern the unholy manipulation of foreign Ulama, notably Hadhrat Mufti Taqi Saheb, perpetrated by certain members of this miserable committee. The two junior members of the MPL committee, Maulana Jeena and Shuaib Omar, are in particular, executing this iniquitous function on behalf of the modernists and company.

Hadhrat Mufti Taqi Saheb should be told that it is in the best interests of the Muslim community of this country that he stays out of the MPL debate—that he plays no role in a proposal which is damned by the Ulama, damned by the Muslim community and damned by the Shariah. He should not allow himself to be manipulated by a handful of individuals.

The meeting with Hadhrat Mufti Taqi Saheb early this year was an insult for Ilm-e-Deen and for Muslim intelligence. A nefarious proposals with far reaching and evil consequences for the Muslim community and the Shariah was under scrutiny, Ulama, academics and intellectuals were present at the meeting, but only a smattering of a discussion took place. Most of the un-Islamic proposals of the MPL committee were not even mentioned. Hadhrat Mufti Saheb came unprepared. He did not even have the time to make an indepth study of the MPL kufri proposal. Stray comments in a very unarticulated manner were doled out. No issue was discussed in depth or detail. Opinions tendered by Hadhrat Mufti saheb were not even scrutinized in the light of the Dalail of the Shariah and the Rulings of the Fuqaha of bygone times and the Akaabir Ulama of recent times.

Judge Navsa should not run away with the idea that his committee will get away with murder of the Sdhariah by simply citing the name of Mufti taqi Saheb and by saying that “we have written fatwa from Mufti Taqi”. Our judgement and Dalaail on Shar’i issues are not subservient to th opinions of Hadhrat Mufti Taqi Saheb. Get this message clear, Judge Saheb and all members of the MPL.

The Qadianis have their shariah, Shiahs have their shariah. The numerous baatil sects have their own shariahs. So why can the Miserable People's League not have their own shariah? This is a free country in which the constitution enshrines the principle of 'freedom of religion'. The MPL clique is welcome to develop its own shariah. But it should not attempt to ram it down the throats of the community of Islam.

If ever this stupid and iniquitous proposal of MPL gets the blessings of the legislature, then this committee should understand that it will be constituting a new sect on its own. The community will dissociate from it. Any legislation enacted on the basis of MPL will have no binding on the citizens of South Africa who are not members of that particular sect. MPL will not be binding on us, even if made law, in the same way that it will not be binding on Christians, Hindus, Jews, etc.

We are citizens of South Africa. The constitution does not permit discrimination among its citizens on the basis of colour, creed, gender and what not. Our inalienable constitutional right is to be governed by the constitution of this country. As such, no one will be able to compel Muslims to submit to the MPL proposal of the new sect.

The constitution will become a mockery and a meaningless piece of paper if it permits discrimination on the basis of any factor which it proscribes. Whether MPL becomes law or not, is not of much significance because the constitution guarantees 'freedom of religion'. In terms of the religion we follow, we reject MPL religion and we prefer the South African constitution with all its kufr since it is akhafful baliyyatain (the lesser of the two evils). Furthermore, we can manoeuvre our way and pilot our lives in the labyrinth of kufr of the constitution in such a manner which allows maximum obedience to the Immutable Shariah in the circumstances we are faced with. No Muslim who has any good intelligence will knowingly encumber himself with a kufr deal alnatross such as the MPL invented by the misguided MPL committee.

Our concern and opposition to the project committee are no in consequence oif any apprehension regarding the coercive implementation of MPL on the Muslim community should it become law. Our concern is the effect of grief and anger at the perpetrations of Muslims, including Maulanas who peddle kufr and deceive the <uslim community into believing that what thy are churning out is the Shariah brought by Rasulullah (sallallahu alayhi wasallam).

While a lot of hot air has been blown up by the MPL committee regarding the imaginary advantages of their kuftr proposals, they have yet to explain what these advantages are? Before embarking on a project, men of intelligence should clearly demarcate the advantages, disadvantages and the goals. The crucial questions regarding MPL are:

- (1) What are the benefits of MPL?
- (2) What are the disadvantages in not havig MPL?
- (3) In which way will MPL enhance Islamic life for

- (4) Who advised the MPL Committee on the issues of polygamy, minimum marriageable age, and the several other related issues?
- (5) Are the proposals of the MPL the products of authoritative Fataawa of the Ulama or the opinions of the majority of juhhaal, modernists and maloonah respondents consulted by the MPL committee?
- (6) What qualifications in terms of the Shariah does the plethora of respondents possess to voice opinions on the Shariah?
- (7) What are the Shar'i qualifications of the members of the MPL committee?
- (8) Precisely which proposal contained in the whole of the proposed MPL bill did Mufti Taqi Saheb support entirely? His opinion on the issue of hybrid courts is not to be regarded as support for the proposal on this issue as it appears in the draft bill.
- (9) How many members of the project committee are members of the nefarious gender committee which stands for everything which is diametrically opposed to Islam?

It is extremely naïve, to say the least, to expect two opposed systems of law operating on parallel levels in one country. The constitution's freedom of religion clause cannot be understood as freedom to operate our lives according to the Shariah. Such 'freedom' guaranteed by the constitution applies to only such acts and traditions which are in no way incompatible with the secular constitution.

We do not expect Shariah Law and Shariah courts to be introduced in South Africa along with secular law. It is ludicrous to expect that there can be Shariah Law. What is acceptable to the constitution is only the name 'shariah', not the laws of the Shariah. If the laws of the Shariah are amended and changed to make them compliant with the constitution, only then will it be acceptable. But products of such compliance are not Shariah laws. They will be some laws which can be appropriately designated Jaahiliyyah law.

Discussing this aspect, Professor Ziyad Motala said: “So, essentially what the Constitution states is it will allow you to regulate your affairs and we (the state) will work with you. However, there is an important overriding principle in terms of which this operates and that is provided our accommodation is accomplished with the over-all spirit, purport and objects of the Constitution.

When you enter into that kind of dispensation, what you ultimately enter into is a scenario where you now consent to the state becoming the arbiter over religious law. Essentially that is what you have. You basically say that you recognize my religious traditions. Also, I recognize you and I will take the institutions of state and I will allow the ultimate arbiter of disputes—namely the court to intervene and interpret religious law. In the context of MPL, it means you accept the role of the court, particularly the Constitutional Court to make MPL compliant with the Constitution. In other words, there is no question of MPL operating under an independent regime of whether it is Shariah compliant. Instead, the ultimate question is whether MPL (or for that matter Shariah Law) is compliant with the Constitution. This then raises the question: how would the Constitutional Court view Shariah principles.”

What Professor Ziyad Moolla says is plain commonsense. If anyone is unable to understand the purport of the Professor's comments, there is no point then in discussing with him. It is self-evident that almost everything in the Shariah is 'discriminatory', especially in terms of gender, in the light of the godless secular constitution. It is really a dense mind that will believe that it is possible to make the constitution Shariah compliant. In the same way, it is impossible from the Shariah point of view to make the Immutable Shariah of Islam compliant with the constitution which exposes almost every facet of moral turpitude—homosexuality, adultery, prostitution, abortion, etc. What MPL can achieve by gaining acceptance for its kufr draft bill, is a shariah which is wholly subservient to every haraam principle of the constitution which is further subject to the interpretation of individuals of the constitutional court.

The idea that the Shariah can operate within the framework of the constitution as the MPL committee postulates is mind boggling when we observe that there are judges, lawyers and academics serving on this committee. The Maulana Saheb can be excused for his blissful ignorance of the issues at stake, not the academics. If the Maulana had a correct understanding of the Shar'i Uloom which he had pursued for a number of years, he would never have assented to be a member of a committee which is trifling with Islam, and which has put Islam up for auction to be purchased by the behests of the medley of queer groups which constitute the respondents to whom the MPL committee refers. Has the Maulana finally become a bird of the feather?

DISSECTION OF MPL
INSHA'ALLAH, WE SHALL FURTHER DISSECT
TH MPL ROPOSALS IN OUR NEXT SPECIAL
EDITION

XXX
THE QUR'BAANI PROJECT
1423 /2002

Once again, the Mujlisul Ulama will, Insha'Allah, be arranging for Qur'baani to be made in mainly Bangladesh where our Maktab Projec is also concentrated. Qur'baani will also be made in Refugee camps in Pakistan.

We call on Muslims to support this project, thereby assisting the poor and suffering Muslims in other parts of the world. The provision of meat which is a rare luxury for countless Muslims living in poverty, is a happy occasion for the desitute. While gaining the thawaab of Qur'baani, one receives the added thawaab of caring for the poor. It is hoped that Muslims will generously support this project.

Those who intend having their Qur'baani made, should send their Qur'baani contributions early. Much time is required to properly arrange for Qur'baani to be made in far apart and remoe villages. Animals are not always available in the villages, and have to be purchased elsewhere and transported to the numerous places where the animals will be sacrificed.

The cos of a cow in Bangladesh is approximately R2000 (\$200) or R300 (\$30) per share. Send your contribution early to enable us to make proper arrangements. Our banking details are:

Cheques may also be sent to: Mujlisul Ulama of S.A., P..Bx 3393, Port Elizabeth 6056. When making a deposit, please send a copy of the deposit slip, preferably by fax. Our fax/[hone number is 041-4513566. When informing us of your deposit or when sending a cheque, list the names of the persons for whom Qur'baani should be made. Jazaakumullaah!

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WHAT NEED FOR MPL?

What exactly is the need for MPL? This question has never ben answered satisfactorily. Muslims have been living in this secular state for quie a long time. How does non-recognition of our marriages preven us from regulating our lives according to th Shariah? If the Shariah in relation to marriage, divorce, maintenance, custody, annulment, inheritance, etc., is no observed, it is not on account of any act of the government or its secular constitution. Non-observance of the Shariah is the consequence of the evil and disobedience of Muslims.

AVERSE

A Muslim who is averse to the decisions of the Shariah, and women are the main culprits in this regard, creates problems. The transgressing spouse being unsaisfied with the rulings of the Shariah, resorts to the kuffaar courts for 'relief'. If both parties have regard for the Shariah, non-recognition of their marriage poses no problem whatsoever. Either for spiteful motives or for monetary gain, the Shariah is set aside and the aid of the secular court is enlisted. Non-recognition of our marriages has no bearing on the transgression of Muslims who display their aversion for Allah's Law by proceeding to the kuffaar courts.

NON-RECOGNITION

Regardless of non-recognition ofIslamic marriages, there are no governmental restraints on Nikah, whether monogamous or polyganous. A man can marry more than one wife without having to seek anyone's permission. Talaaq can be administered in accordance with the Shariah. The same applies to Faskh, Khula',custody, maintenance, inheritance, etc. There is no state interference if Muslims desire to regulate their lives according to the Shariah in these domains of so-called Muslim Personal Law.

MPL

MPL cannot compel an averse Muslim to submit to the Shariah—assuming that its proposal are Shariah compliant — if he/she invokes the constitution and resorts to the secular court for a decision in accordance with the secular law of the country. It follows that only those who voluntarily choose to submit to MPL wrongly believing that it is the Shariah, will agree to be judged by the MPL law.

But MPL is not needed if a Muslim wants to follow the Shariah. The problem is thus not non-recognition of Islamic marriages. The problem is the disobedience of Muslims and their unwillingness to submit o the Shariah.

INTESTATE

The only semblance of valid argument which the MPL votaries have is a man who dies without leaving a will. Since his Islamic marriage is not recognized, his Shar'I heirs will be deprived of their share of inheritance or their proper share or some will be excluded from inheriting.